

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE: WILLIAM H. FITZGERALD
WILLIAM FITZGERALD
WILLIAM HART FITZGERALAD

Debtor(s)

CHAPTER 13

CHARLES J. DEHART, III
CHAPTER 13 TRUSTEE
Movant

CASE NO: 1-17-BK-04313JJT

vs.

WILLIAM H. FITZGERALD
WILLIAM FITZGERALD
WILLIAM HART FITZGERALAD
Respondent(s)

TRUSTEE'S MOTION TO DISMISS CASE WITH PREJUDICE

AND NOW, on July 05, 2018, Charles DeHart, III, Standing Chapter 13 Trustee for the Middle District of Pennsylvania, moves this Honorable Court for dismissal with prejudice of the above-captioned Chapter 13 bankruptcy case in accordance with Section 1307(c) of 11 U.S.C., due to material default by the debtor(s) with respect to the terms of the plan.

Notice of conference, hearing and other instructions are included with this Motion.

In addition to the petition filed in this case, debtor(s) filed petitions docketed to the following cases:

- | | |
|---|--|
| a. Case # 1-16-00150RNO
Filing Date: 01/18/2016
Total Payments: \$0
Result: Dismissed for material default | Counsel: TULLIO DeLUCA, ESQUIRE
Date Dismissed: 06/23/2016
Chapter: 13 |
| b. Case #1-16-04658JJT
Filing Date: 11/13/2016
Total Payments: \$6,347.95
Result: Voluntary dismiss | Counsel: BRIAN E MANNING, ESQUIRE
Date Dismissed: 10/16/2017
Chapter: 13 |

Movant believes and avers that, under the totality of the circumstances, debtor(s) demonstrated substantial abuse and a lack of good faith in the filing of 2 prior Chapter 13 petitions within a 2-year period that this Court dismissed prior to completion and filed the current petition thereafter.

WHEREFORE, Movant requests this Court to:

1. Enter an Order dismissing the above-captioned case in accordance with 11 U.S.C. Sec. 1307(c) and,

2. Dismiss this case with prejudice with regard to debtor(s) filing a subsequent petition under the Bankruptcy Code in this district without prior leave of this Court for a period of 180 days from the entry of this dismissal.

RESPECTFULLY SUBMITTED,

/s/ Charles J. DeHart, III

Charles J. DeHart, III, Trustee

8125 Adams Drive, Suite A

Hummelstown, PA 17036

Phone: (717) 566-6097

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NOTICE

NOTICE IS HEREBY GIVEN THAT Charles J. DeHart, III, Standing Chapter 13 Trustee for the Middle District of Pennsylvania has filed a Motion to Dismiss with Prejudice for failure to make timely payments pursuant to your Chapter 13 Plan.

YOU ARE HEREBY NOTICED that a CONFERENCE before the Trustee and a HEARING with the Court have been scheduled on this motion.

Any matters not resolved at the Trustee's Conference shall be heard at the dismissal hearing to be held as stated below:

CONFERENCE before Trustee:

August 07, 2018 at 9:00 am
Dismissal Conference Room (Courtroom
2)
Ronald Reagan Federal Bldg.
3rd Floor, Third and Walnut Streets
Harrisburg, PA 17101

HEARING:

August 07, 2018 at 9:35 am
Ronald Reagan Federal Bldg.
Bankruptcy Courtroom 3rd
Floor, 228 Walnut Street
Harrisburg, PA 17101

YOU ARE FURTHER NOTICED that you MUST attend the conference or dismissal hearing unless one of the following takes place on or before: **August 07, 2018.**

1. You have paid the following and have confirmed payment with Trustee DeHart's office.

AMOUNT DELINQUENT AS OF LAST MONTH: \$2,539.18

AMOUNT DUE FOR THIS MONTH: \$1,269.59

TOTAL AMOUNT DUE BEFORE CONFERENCE/HEARING DATE: \$3,808.77

NOTE:

ALL payments must be made by CERTIFIED CHECK OR MONEY ORDER. NO PERSONAL CHECKS OR CASH WILL BE ACCEPTED.

DO NOT send your payments REGISTERED, CERTIFIED, FEDERAL EXPRESS, UPS, or by any other special delivery service. Doing so will delay processing of your payment and may result in dismissal of your case.

Mail payments by U.S. First Class Mail to:

CHARLES J. DEHART, III, PO BOX 7005, LANCASTER, PA 17604

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2. You have entered into a valid stipulation with Trustee DeHart and that stipulation has been filed with the Court, or
3. You have filed a voluntary conversion or a voluntary case dismissal with the U.S. Bankruptcy Court and have served a copy of that motion upon Trustee DeHart.

FAILURE TO COMPLY WITH THE ABOVE WILL RESULT IN YOUR CHAPTER 13 CASE BEING CALLED FOR DISMISSAL HEARING WITH THE COURT ON THE DATE AND TIME AS SPECIFIED IN THIS NOTICE. THIS MAY RESULT IN DISMISSAL OF YOUR CASE WITH PREJUDICE.

Charles J. DeHart, III, Trustee
8125 Adams Drive, Suite A
Hummelstown, PA 17036
Phone: (717) 566-6097

Dated: July 05, 2018

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CERTIFICATE OF SERVICE

I hereby certify that the Debtor and his/her counsel, have been served a copy of this Motion, Notice, and Proposed Order by First Class Mail, unless served electronically, at the below address on July 05, 2018.

BRIAN E MANNING, ESQUIRE
502 SOUTH BLAKELY STREET
DUNMORE, PA 18512

WILLIAM H. FITZGERALD
WILLIAM FITZGERALD
WILLIAM HART FITZGERALAD
309 WHEELER AVE.
SCRANTON, PA 18510-2514

RESPECTFULLY SUBMITTED,

/s/ Liz Joyce

For Charles J. DeHart, III, Trustee
8125 Adams Drive, Suite A
Hummelstown, PA 17036
Phone: (717) 566-6097

Dated: July 05, 2018

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MOTION TO DISMISS WITH PREJUDICE

ORDER DISMISSING CASE

Upon consideration of the Trustee's Motion to Dismiss with Prejudice, it is hereby ORDERED that the above-captioned bankruptcy be and hereby is DISMISSED WITH PREJUDICE. Debtor is hereby barred from filing in this district without prior leave of this Court for a period of 180 days from the date of this order.